

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSE RIGOBERTO MORENO,

Plaintiff,

v.

ERIC AUKEE, et al.,

Defendants.

Case No. [19-cv-04206-EMC](#)

**ORDER DENYING PLAINTIFF'S
MOTION TO SET ASIDE JUDGMENT,
DENYING PLAINTIFF'S MOTION TO
CONTINUE CASE, AND DENYING
PLAINTIFF'S MOTION TO FILE
AMENDED COMPLAINT**

Docket No. 23, 24, 25

Plaintiff Rigoberto Jose Moreno, proceeding pro se, filed this lawsuit against a long list of defendants. Docket No. 1. On July 31, 2019, the Court granted his request to proceed in forma pauperis. Docket No. 4. However, the Court dismissed his complaint under 28 U.S.C. § 1915(e) because it failed to state a claim upon which relief can be granted. *Id.* Mr. Moreno was given leave to file an amended complaint no later than August 30, 2019. *Id.* Plaintiff was informed that if he failed to file an amended complaint, dismissal would be the likely result. *Id.* The Court also directed Plaintiff to the Court's guide for pro se litigants as well as the Legal Help Center. *Id.* However, Mr. Moreno did not file an amended complaint as he was directed to do by August 30, 2019, and the Court dismissed his case on September 20, 2019. *See* Docket No. 20.

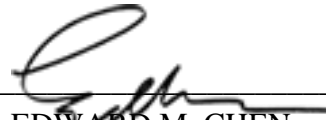
On September 27, 2019, Mr. Moreno filed a "Motion to Continue Case, Regarding Status Conference on October 24, 2019." *See* Docket No. 23 ("Mot. to Continue"). While Mr. Moreno's motion is somewhat difficult to decipher, it appears that he is requesting that the case status conference previously set for October 24, 2019 be maintained. However, because Mr. Moreno's case has been dismissed, there is no need for a case status conference. As a result, Mr. Moreno's "Motion to Continue Case, Regarding Status Conference on October 24, 2019" is **DENIED**.

1 Mr. Moreno has also filed a “Motion to Set Aside Judgement [sic].” *See* Docket No. 25.
2 Although he does not mention Federal Rule of Civil Procedure 60 in this motion, he does mention
3 Rule 60(b)(6) (as well as Rule 60(b)(1)–(5)) in his “Motion to Continue Case.” *See* Mot. to
4 Continue at 3. Because he titles his motion as one to set aside a judgment, the Court treats this
5 motion as one for relief under Rule 60 of the Federal Rules of Civil Procedure. However, there is
6 nothing in Mr. Moreno’s “Motion to Set Aside Judgement” that would qualify him for relief
7 pursuant to Rule 60(b). He does not allege a mistake by the Court, the existence of newly
8 discovered evidence, fraud, or any other reason that justifies relief. *See* Fed. R. Civ. P. 60(b);
9 *United States v. Real Prop.*, 164 F.R.D. 496, 499 (C.D. Cal. 1995), *aff’d sub nom. United States v.*
10 *Real Prop. Described as 3947 Locke Ave., Los Angeles, Cal.*, 97 F.3d 1462 (9th Cir. 1996) (“any
11 litigant seeking a right to reopen under Rule 60(b) must bring himself within one of the fact
12 situations listed in that rule”). As a result, Mr. Moreno’s “Motion to Set Aside Judgement” is
13 **DENIED**. Because the Court declines to set aside its previous judgment, Mr. Moreno’s “Motion
14 for Leave to Amend Complaint in Absence of Undue Delay,” *see* Docket No. 24, is also
15 **DENIED**.

16 This order disposes of Docket Nos. 23, 24, and 25.

17
18 **IT IS SO ORDERED.**

19
20 Dated: October 8, 2019

21
22 
23 EDWARD M. CHEN
24 United States District Judge
25
26
27
28